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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-----------------------|-----------------------|---------------------|------------------|
| 10/758,052 | 01/14/2004 | Bruce Anthony Tavares | 4588-00003D | 5105 |
| Alfred D. Lob | 7590 03/21/2007 O. | | EXAM | INER |
| LOBO & CO., L.P.A. | | | MCAVOY, ELLEN M | |
| 933 The Leader Building 526 Superior Avenue | | | ART UNIT | PAPER NUMBER |
| Cleveland, OH 44114-1401 | | | 1764 | |
| CHARTCHED OF ATLED | RY PERIOD OF RESPONSE | MAIN DAME | | |
| SHOKTENED STATUTO | RT PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 03/21/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | _ | | | |
|--|---|--|---|--|--|--|
| | Application No. | Applicant(s) | | | | |
| | 10/758,052 | TAVARES ET AL. | | | | |
| Office Action Summary | Examiner | Art Unit | _ | | | |
| | Ellen M. McAvoy | 1764 | | | | |
| The MAILING DATE of this communication app Period for Reply | ears on the cover sheet with the c | orrespondence address | | | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DATE - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period value of reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). | ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE | N. sely filed the mailing date of this communication. D (35 U.S.C. § 133). | | | | |
| Status | • | | | | | |
| . 1) Responsive to communication(s) filed on | _ | | | | | |
| 2a) This action is FINAL . 2b) ⊠ This | action is non-final. | | | | | |
| •— | Since this application is in condition for allowance except for formal matters, prosecution as to the merits is | | | | | |
| closed in accordance with the practice under E | Ex parte Quayle, 1935 C.D. 11, 45 | 53 O.G. 213. | | | | |
| Disposition of Claims | | | | | | |
| 4) ⊠ Claim(s) 1-9 is/are pending in the application. 4a) Of the above claim(s) is/are withdray 5) □ Claim(s) is/are allowed. 6) ⊠ Claim(s) 1-9 is/are rejected. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction and/o | | | | | | |
| Application Papers | | | | | | |
| 9) ☐ The specification is objected to by the Examine 10) ☑ The drawing(s) filed on 14 January 2004 is/are: Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) ☐ The oath or declaration is objected to by the Examine | a)⊠ accepted or b)⊡ objected drawing(s) be held in abeyance. Section is required if the drawing(s) is ob | e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d). | | | | |
| Priority under 35 U.S.C. § 119 | | | | | | |
| 12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority document application from the International Bureau * See the attached detailed Office action for a list | s have been received. s have been received in Applicati rity documents have been receive u (PCT Rule 17.2(a)). | on No ed in this National Stage | | | | |
| Attachment(s) | 4) 🗖 Intentious Summers | (PTO-413) | | | | |
| 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4) Linterview Summary Paper No(s)/Mail D | ate | | | | |
| 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 5/10/2004; 8/21/2006. | 5) Notice of Informal F 6) Other: | Patent Application | | | | |

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Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-9 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7-12 of U.S. Patent No. 6,683,031. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent claims a rope handling system for chopping a raw cotton plant material (cellulose) into a reduced size which is indistinguishable from the system for chopping rope of cellulose fibers into fragments of the instant claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure.

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Eichler et al (3,735,661) and Eichler et al (3,831,482) disclose an apparatus for cutting fiber strands such as cellulose fibers and comprises a rotating cutter head in which the chopping knives are detachably mounted.

The reference EP 0 836 887 A cited by applicants on the form PTO-1449 filed 21 August 2006 has not been considered by the examiner since it has not been made of record in this application. It is requested that applicants resubmit this reference for consideration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen M. McAvoy whose telephone number is (571) 272-1451. The examiner can normally be reached on M-F (7:30-5:00) with alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

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Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ellen M McAvoy
Primary Examiner
Art Unit 1764

EMcAvoy March 16, 2007